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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/802,512 | 03/17/2004 | John R. Lewis | MVIS 98-52 C 3 | 3964 |

7590 12/20/2005
Christopher A. Wiklof
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EXAMINER

ROBINSON, MARK A

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

2872

DATE MAILED: 12/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

| | | | |
|------------------------------|--------------------------------------|-------------------------------------|--|
| Office Action Summary | Application No. 10/802,512 | Applicant(s) LEWIS ET AL. | |
| | Examiner Mark A. Robinson | Art Unit 2872 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 35-54 is/are pending in the application.
- 4a) Of the above claim(s) 35-46 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 47-54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/29/05 has been entered.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 47,48,50,52-54 are rejected under 35 U.S.C. 102(b) as being anticipated by Krichever (US 5988502).

As discussed previously, Krichever discloses an image capture device or bar code scanner including plural laser diode

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beam emitters (201,202,300,etc.; note also col. 7 lines 66-67) able to operate sequentially and sharing a common scanning mirror(207,1322), a photodetector(212,1324) outputting a signal to a decoder(217,218,etc.) which decodes a bar code symbol(208). Note that the beams are scanned across substantially non-overlapping regions as taught in col. 9 lines 17-28. Regarding the amendments to claims 47 and 53, it is clear from a reading of col. 9 lines 17-36 that each non-overlapping scan region is comprised of a plurality of immediately adjacent scan lines such as those shown in fig. 10.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 47,48 and 50-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Metlitsky (US 5545886) in view of Suzuki (US 6172788).

As discussed previously, Metlitsky discloses an image capture device or bar code scanner including plural laser diode beam emitters(81-83) able to operate sequentially and sharing a common scanning mirror(76), a photodetector(15) outputting a signal to a decoder(20) which produces a bitmap (fig. 19) image of the field of view. Metlitsky does not show non-overlapping scan regions each having a plurality of immediately adjacent scan lines. However, such an arrangement is shown by Suzuki in fig. 1 (note non-overlapping regions Ra and Rb, each of which include multiple immediately adjacent scan lines). It would have been obvious to the ordinarily skilled artisan at the time of invention to replace the scanning assembly of Metlitsky with that of Suzuki in order to increase the speed at which a surface is scanned as taught by Suzuki.

6. Claim 49 is rejected under 35 U.S.C. 103(a) as being unpatentable over Metlitsky in view of Suzuki as applied to claim 47 above, and further in view of Obata (US 5597997).

Metlitsky in view of Suzuki further discloses emission and detection of a plurality of unique wavelengths of light (fig. 17), but does not explicitly teach plural photodetectors for receiving the light. However, Obata teaches multiple detectors for the various wavelengths (see fig. 6a). It would have been

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obvious to the ordinarily skilled artisan at the time of invention to use plural detectors as shown by Obata as an art-recognized equivalent means for multiple wavelength detection as the detecting arrangement shown by Metlitsky in view of Suzuki. Note that the use of multiple detectors would also provide greater flexibility in the positioning or calibration of the individual detectors.

7. Claim 49 is rejected under 35 U.S.C. 103(a) as being unpatentable over Krichever in view of Obata.

Krichever further discloses emission and detection of a plurality of unique wavelengths of light (note the paragraph bridging col. 7-8), but does not explicitly teach plural photodetectors for receiving the light. However, Obata teaches multiple detectors for the various wavelengths (see fig. 6a). It would have been obvious to the ordinarily skilled artisan at the time of invention to use plural detectors as shown by Obata as an art-recognized equivalent means for multiple wavelength detection as the detecting arrangement shown by Krichever. Note that the use of multiple detectors would also provide greater flexibility in the positioning or calibration of the individual detectors.

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8. Claim 51 is rejected under 35 U.S.C. 103(a) as being unpatentable over Krichever in view of Metlitsky.

Krichever does not teach producing a bitmap of the decoded image. However, Metlitsky does teach producing a bitmap of the decoded image as noted above. It would have been obvious to the ordinarily skilled artisan at the time of invention to produce a bitmap of Krichever's image to enable computer storage and/or analysis of the image.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Suda (US 5877885) and Conemac (US 6175440) show scanners which scan non-overlapping regions, each having a plurality of scan lines.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Robinson whose telephone number is (571) 272-2319.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew Dunn, can be reached at (571) 272-2312. The fax phone number for the

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organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MR

12/16/05


MARK A. ROBINSON
PRIMARY EXAMINER